

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

IVAN CASARES ANDRADE,
 a/k/a Jose Velasquez Trujillo,

Petitioner,

v.

THOMAS A. LONG,

Respondent.

CASE NO. C05-1474-JLR-JPD

REPORT AND RECOMMENDATION

Petitioner is currently in federal custody at the Eloy Detention Center in Eloy, Arizona. He has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which he seeks to challenge his 1991 King County Superior Court conviction on drug charges. It appears, however, that this Court lacks subject matter jurisdiction over petitioner's petition.

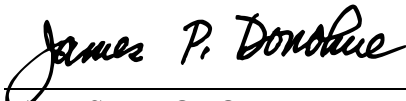
Subject matter jurisdiction under 28 U.S.C. § 2254 is limited to those persons "in custody pursuant to the judgment of a State court." 28 U.S.C. § 2254(a); *Brock v. Weston*, 31 F.3d 887, 889 (9th Cir. 1994). Once a petitioner's sentence has fully expired, he is precluded from challenging that sentence because he is no longer "in custody" for purposes of federal habeas review. *Maleng v. Cook*, 490 U.S. 488, 492 (1989).

REPORT AND RECOMMENDATION

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1 The record before this Court indicates that petitioner was sentenced in January 1992 to serve
2 45 months in the custody of the Washington Department of Corrections on the conviction which he
3 seeks to challenge in this federal habeas action. (Dkt. No. 1 at 22-24.) The record further indicates
4 that petitioner, having completed the requirements of that sentence, was discharged from the
5 confinement and supervision of the Secretary of the Washington Department of Corrections on
6 August 19, 1998. As petitioner has fully served the Washington sentence he now seeks to challenge,
7 he is no longer "in custody" for purposes of § 2254. This Court therefore lacks subject matter
8 jurisdiction over petitioner's federal habeas petition. Accordingly, this Court recommends that
9 petitioner's petition and this action be dismissed with prejudice. A proposed order accompanies this
10 Report and Recommendation.

11 DATED this 13th day of October, 2005.

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13 JAMES P. DONOHUE
14 United States Magistrate Judge
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